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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

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No. 686

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MILES NATIONAL FARM LOAN ASSOCIATION,  
*Petitioner,*  
*vs.*

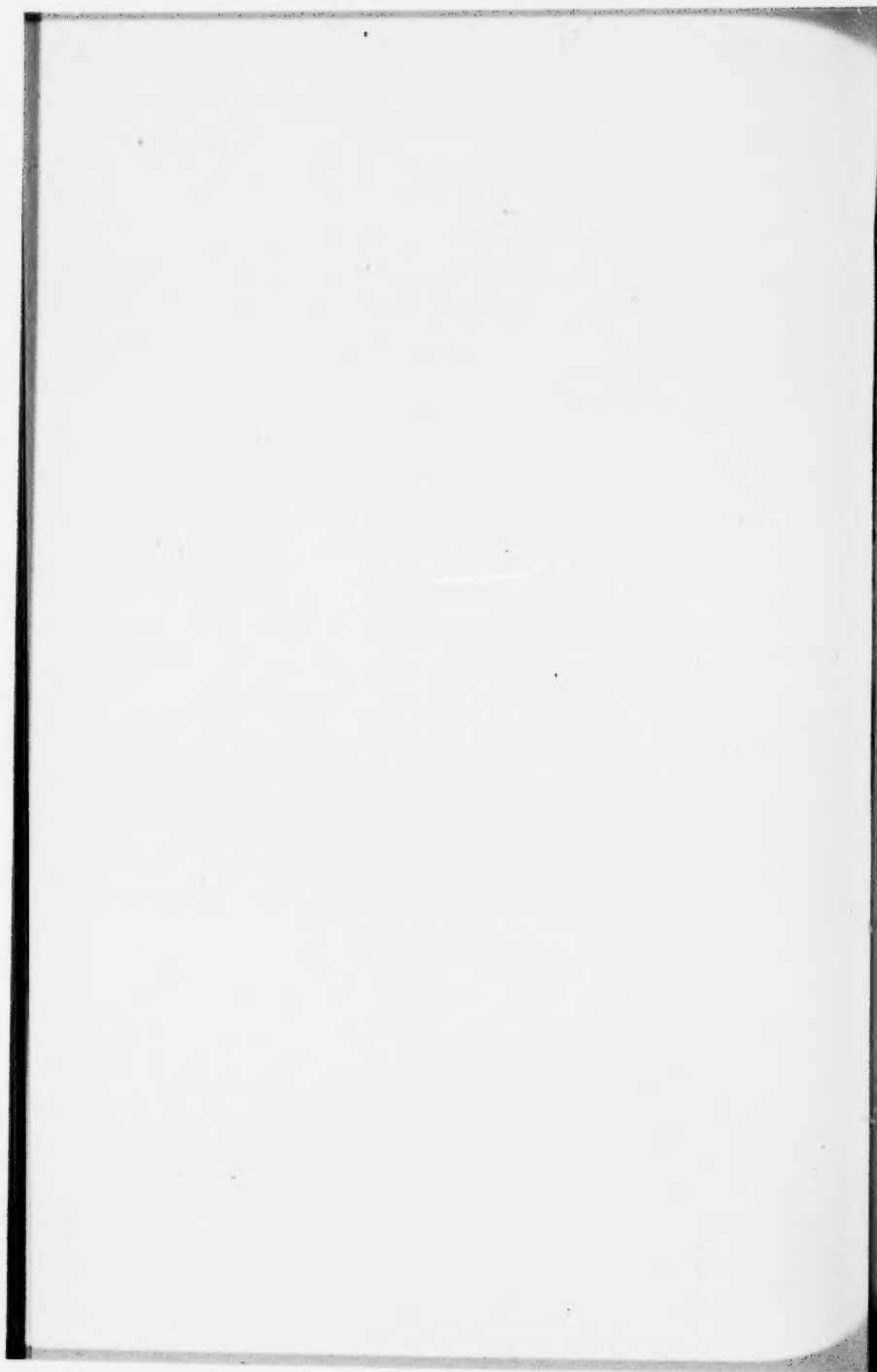
THE FEDERAL LAND BANK OF HOUSTON.

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PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE FIFTH CIRCUIT AND SUPPORTING  
BRIEF.

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SCOTT SNODGRASS,  
*Counsel for Petitioner.*



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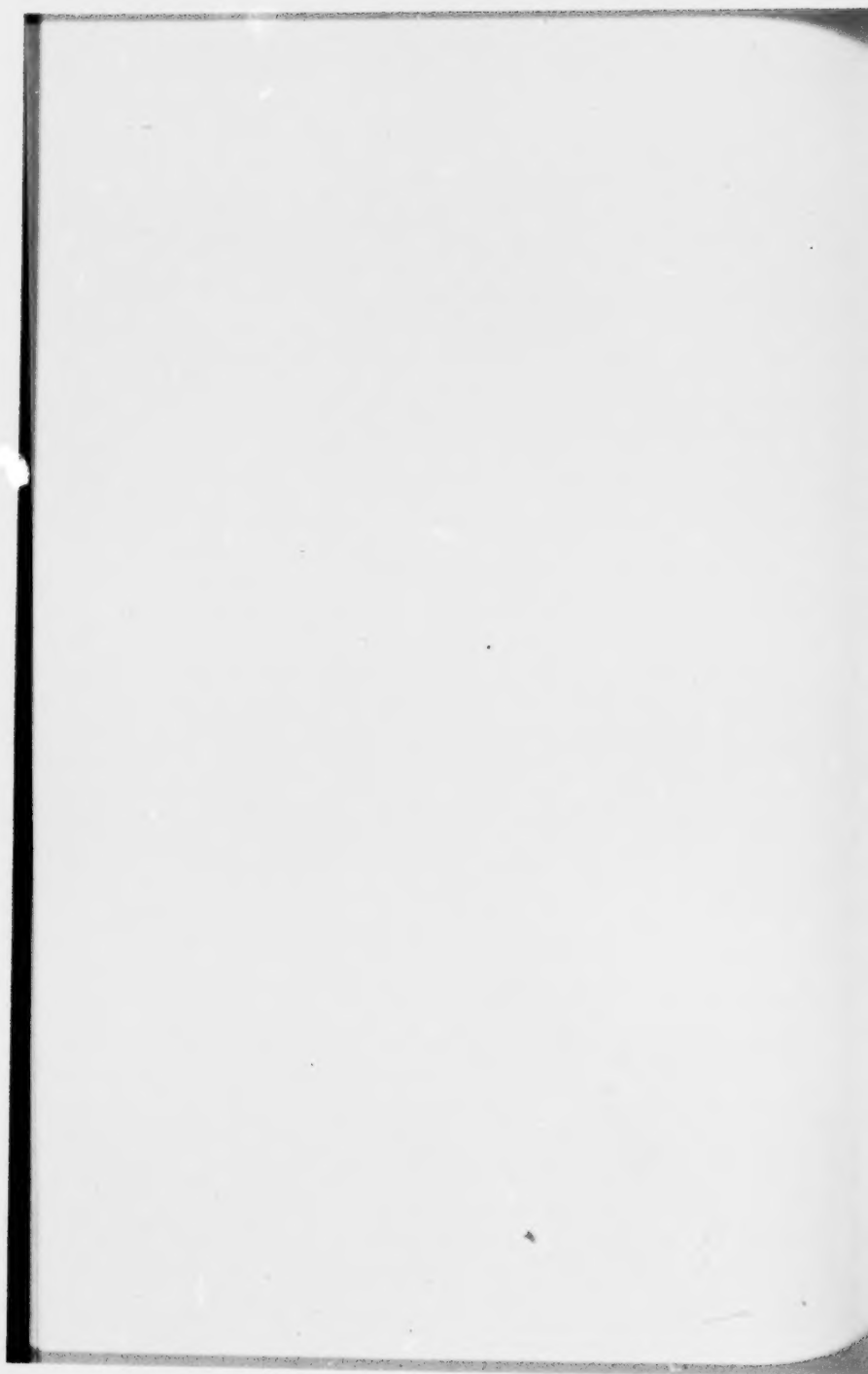
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*vs.* *Petitioner,*

THE FEDERAL LAND BANK OF HOUSTON,  
*Respondent.*

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**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE FIFTH CIRCUIT.**

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*To the Supreme Court of the United States:*

Petitioner, Miles National Farm Loan Association petitions this Court to issue its Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit to review and reverse its decision reversing the action of the trial court and directing the dismissal of Petitioner's complaint.

**Summary and Statement of the Matter Involved.**

Miles National Farm Loan Association was formed within the jurisdictional area of the Federal Land Bank of Houston in the year 1917. Both it and the Federal Land Bank of Houston were created under the Federal Farm Loan Act and at the time of the trial of the cause in the

District Court slightly in excess of \$577,000.00 in loans made by the Bank through the Association were outstanding, with the Association being liable as endorser or guarantor of these loans (R. 45 and 46).

Although the Association was entirely solvent, and although for some twenty-five years it had collected and serviced the loans made through it in a satisfactory and efficient manner, the Land Bank in the fall of 1942, desiring to merge the Association with another Association in Runnels County, attempted to take away from the Association its right to continue to service and collect the outstanding loans for which it was liable (R. 100-101), appointed an agent at Ballinger, Texas, some twenty miles east of Miles, to make collections on these loans (R. 53), and advised the borrowers to make no further payments to the Association (R. 31-2). The Association pleaded that as a result of the acts of the Bank its rights to conduct its business, to assist and supervise its member borrowers and to minimize its financial losses under its contract of guarantee were being interfered with (R. 6-7). It alleged that many of the borrowers were uncertain where and how to pay the maturing installments and that many of them were refusing to recognize the rights of the Association to collect and receipt for payments (R. 5 and 6), and the Bank in its answer admitted that many of the borrowers were refusing to recognize the rights of the Association to collect and receipt for payments and that it and the agent appointed by it were denying the existence of any such rights (R. 32).

The Association sought an injunction restraining the Bank from interfering with its rights to collect and service the loans for the payment of which it was liable as endorser or guarantor, and restraining the Bank and its agent from making collections on them or asserting to the member borrowers the authority of the Bank's agent to make collections and the want of authority on the part of the Associa-

tion to make them. It prayed that the Bank be required to recognize and respect its rights to service and make the collections (R. 7-8).

On April 28, 1943, the trial court rendered judgment directing that the Federal Land Bank of Houston recognize the right of the Miles National Farm Loan Association to collect payments on loans made through it, enjoining the Bank, its agents and employees, from interfering with the Association in its collecting and servicing of any loans made through it, and adjudicating that the Association was entitled to make collections on all loans for the payment of which it was liable. The judgment specifically provided that it should not affect the rights of the Bank in connection with foreclosures of delinquent loans or its rights "to look into servicing" (R. 103-104).

On appeal the Circuit Court of Appeals for the Fifth Circuit on December 8, 1943, reversed the judgment of the trial court and ordered the petition dismissed (R. 121). In its opinion the Circuit Court of Appeals held that the Bank had the right to authorize an agent to make collections on the loans involved and that a request that the borrowers pay this agent constituted no interference with any right of the Association (R. 121). The Court further held that the Association might still collect on the loans and that the Bank would be required to accept payment if tendered through it (R. 121).

### **Basis Upon Which It Is Contended That This Court Has Jurisdiction.**

1. The jurisdiction of this court is invoked under U. S. C. A. Title 28, Section 347 (a); Judicial Code, Section 240, as amended.

2. The judgment of the Circuit Court of Appeals here sought to be reviewed was rendered December 8, 1943. At

the time of the preparation of this petition the opinion of the Circuit Court of Appeals had not been published. The opinion of the District Court is found in 49 Fed. Supp. p. 777.

3. The Circuit Court of Appeals has decided an important question of federal law which has not been, but should be, settled by the Supreme Court. The decision is one of first impression and it involves the interpretation of certain provisions of the Federal Farm Loan act under which all the twelve Federal Land Banks in the United States and the many National Farm Loan Associations operate. It appears by strong inference from the record itself that the appointment of an agent to collect and service the loans of the Miles National Farm Loan Association was a step in a general plan recently put in operation throughout the entire country rather than an action taken in the light of the situation or circumstances surrounding the particular Association. This inference is made even stronger by the fact that the eleven remaining Land Banks of the country as *Amicus Curiae* filed a brief in the Circuit Court of Appeals, and in that brief for practical purposes admitted the existence of a general plan, national in its scope, under which the smaller country Associations will be eliminated through grouping arrangements.

The question is of general public importance, particularly because the Circuit Court of Appeals has held that both the Association and the Bank have the legal right to make direct collections of the loans, and thus has laid the basis for serious confusion.

#### **The Question Presented.**

The question presented is whether the Circuit Court of Appeals erred in holding that the Miles National Farm Loan Association, while amply solvent, does not have the



right to service and to make installment collections on the loans endorsed and guaranteed by it free of any interference by the Federal Land Bank, acting either directly or through an agent appointed to collect such loans.

### **Reasons Relied On for Allowance of the Writ.**

As stated above in Subdivision 3 under Petitioner's Contentions as to Jurisdiction, the Circuit Court of Appeals has decided an important question of federal law which has not been, but should be, settled by the Supreme Court. The Federal Land Banks and the National Farm Loan Associations play an extremely important part in the economic life of the country. The relative rights and obligations of each toward the other are matters of grave and widespread concern. In view of the apparent plan of the Land Banks to do away with a number of the smaller Associations there should be a clear and authoritative statement made of the rights and duties existing between the Banks on the one hand and their Associations on the other, and especially should there be an early statement of whether the Banks, over the objections of their Associations, may eliminate them from the Land Bank system and for all practical purposes take from them their rights personally to supervise their members and thus to protect their assets which stand behind their endorsements. The opinion of the Circuit Court of Appeals does not settle the question but, to the contrary, makes it more uncertain. It opens the way for a sort of tug of war between the Bank and an Association which does not wish to merge with the farmer borrower in between.

It is submitted that the Writ should be granted in order to correct this situation.

Petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court, directed to the United States Circuit Court of Appeals for the Fifth Circuit, commanding that Court to certify and to send to

this Court for its review and determination, a full and complete transcript of the record and all proceedings in the cause numbered and entitled on its docket 10,747, Federal Land Bank of Houston, Appellant, v. Miles National Farm Loan Association, Appellee, and that the judgment of the United States Circuit Court of Appeals for the Fifth Circuit may be reversed and this petitioner may have such other and further relief in the premises as to this Honorable Court may seem lawful and just.

MILES NATIONAL FARM LOAN  
ASSOCIATION,

By SCOTT SNODGRASS,

*Counsel for Petitioner.*

